

Group Discussion Session

CASE STUDY 2 - LITHUANIA

Group Discussion Session **(GROUP 1)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *Are the specified circumstances sufficient to apply the profit split method? If not, what other evidence is missing?*
 - No.
 - Not enough information
 - We are not sure, where is the key personal located, if service is really provided from Lithuania or is it just for regulatory reasons established there.
 - Who is actually adding value in such kind of business?

Group Discussion Session **(GROUP 2)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *Are the specified circumstances sufficient to apply the profit split method? If not, what other evidence is missing?*

- Definitely no.
- We could not identify any unique intangibles or contributions.
- The conditions for applying the profit split method are not fulfilled.
- On the basis of the delineation of the transaction the UAB „A” resembles more to an agent company.

Group Discussion Session **(GROUP 3)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *Are the specified circumstances sufficient to apply the profit split method? If not, what other evidence is missing?*
- Basically no for the Lithuanian company
 - Maybe the contribution of the Licence does not mean profit split
 - In this case we do not see the unique and valuable contributions from the Lithuanian company, although the Licence could be considered as a valuable asset because it is easier to obtain it
 - The questionable profile of Company A

Group Discussion Session **(GROUP 4)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

1. *Are the specified circumstances sufficient to apply the profit split method? If not, what other evidence is missing?*
- No
 - Valuable and unique contribution(need more analysis of functions)

Group Discussion Session **(GROUP 1)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *What other transfer pricing method could be applied to these transactions?*
- Profit split can be used, if every part of transaction provides unique business, some of us think that client management by company A is not unique.
 - TNMM can be used, if the Lithuanian company provides routine service, including regulatory licence, which is not unique
 - If licence is crucial for such kind of business, TNMM cannot be used.
 - But we are not sure, if it is true, thus, we need more information about facts

Group Discussion Session **(GROUP 2)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *What other transfer pricing method could be applied to these transactions?*

- CUP method – look for internal, external comparable to benchmark the activity of UAB „A”, for example administrative fees - Database search, Bloomberg, Reuters, LoanConnector
- If no comparables can be identified, alternative method: TNMM – applied to test the agency activities of UAB „A”
- PLI: % of sales transactions
- Residual profit split method: on the basis of process contribution analysis

Group Discussion Session **(GROUP 3)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *What other transfer pricing method could be applied to these transactions?*

- Some other kind of remuneration according the functions and risks of A co?
- High cost plus?
- Valuable intangible to get the licence
 - To receive small royalty payment, commission fee...?
 - Every small percentage on each transaction

Group Discussion Session **(GROUP 4)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

2. *What other transfer pricing method could be applied to these transactions?*

- Cost Plus method

Group Discussion Session **(GROUP 1)**
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QUESTIONS/ISSUES FOR GROUP DISCUSSION

3. *Would your tax administration accept to examine such a request and what could be your decision (approve, disapprove the request, approve with reservations / additional critical assumptions or other options)?*
- All of us would ask for more data
 - Some of us would deny the request, nothing is certain
 - Some of us cannot refuse to accept
 - Some of us can refuse, just because of the tax heaven being present
 - Others ask, how can we believe them, if there is no cooperation with the other country? Do we have?

Group Discussion Session **(GROUP 2)**
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QUESTIONS/ISSUES FOR GROUP DISCUSSION

3. *Would your tax administration accept to examine such a request and what could be your decision (approve, disapprove the request, approve with reservations / additional critical assumptions or other options)?*
- We would request additional information on the transaction, financial information, key people functions, etc. and further examine the APA-request
 - In some countries the APA-request would most likely to be disapproved

Group Discussion Session **(GROUP 3)**
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QUESTIONS/ISSUES FOR GROUP DISCUSSION

3. *Would your tax administration accept to examine such a request and what could be your decision (approve, disapprove the request, approve with reservations / additional critical assumptions or other options)?*
- The lack of information, the ability to verify the given information - need to have clear understanding
 - It is questionable according to different kind of legislation. APAs rules
 - The fact that bank account is in other country?
 - IFRS rules are not applied in Tax Heaven Countries?
 - Anti-money laundering checks + policy?

Group Discussion Session **(GROUP 4)**
CASE STUDY 2 - LITHUANIA

QUESTIONS/ISSUES FOR GROUP DISCUSSION

3. *Would your tax administration accept to examine such a request and what could be your decision (approve, disapprove the request, approve with reservations / additional critical assumptions or other options)?*
- Not acceptable
 - Approve/Disapprove the request